

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANA NESSEL, Attorney
General of the State of Michigan,

Plaintiff, No. 1:21-cv-00372-PLM-RSK
v. HON. PAUL L. MALONEY
MAG. JUDGE SALLY J. BERENS
VILLA AMOROSA,
Defendant.

Daniel B. Felder (P68920)
Assistant Attorney General
Attorney for Plaintiff
Alcohol & Gambling Enf. Div.
25680 W. 8 Mile Road
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PLAINTIFF'S MOTION FOR RETURN OF FILING FEE

Plaintiff Dana Nessel, through the above-named Assistant Attorney General, moves this Court to return the filing fee upon dismissal of this matter for the reasons stated in the accompanying brief.

Plaintiff will not be requesting the issuance of a Summons and will not be serving this Complaint; therefore, concurrence in this motion was not sought.

Respectfully submitted,

Dana Nessel
Attorney General

/s/ Daniel B. Felder

Daniel B. Felder (P68920)
Assistant Attorney General
Attorney for Plaintiff
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Dated: May 12, 2021

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**PLAINTIFF'S BRIEF IN SUPPORT OF
MOTION FOR RETURN OF FILING FEE**

On May 5, 2021, Plaintiff erroneously filed its Complaint for Preliminary and Permanent Injunction Pursuant to the Twenty-first Amendment Enforcement Act and Michigan Consumer Protection Act (PageID.1) in this Court. As the caption on the Complaint shows, it was intended to be filed in the United States District Court for the *Eastern*

District of Michigan. Venue for an action under the Twenty-first Amendment Enforcement Act, 27 U.S.C. § 122a(c)(2), is based on the residence of the person who received the illegal shipment of liquor. The Complaint asserts that Villa Amorosa made an illegal sale and shipment of intoxicating liquor to a Michigan Liquor Control Commission investigator who resides in Ferndale, Michigan, which is in the Eastern District of Michigan federal judicial district. As such, the Complaint asserts that venue is appropriate in the *Eastern District* (Paragraph 20). It should have been filed in the United States District Court for the Eastern District of Michigan instead of this Court.

Plaintiff took corrective measures right away and filed the Complaint in the Eastern District of Michigan on the same day (Case 2:21-cv-11015-SFC-KGA). Plaintiff's administrative staff also contacted the Clerk's office in this Court and advised of the error that day. Once Plaintiff receives this Court's decision on this motion, Plaintiff will be filing a Notice of Voluntary Dismissal and will not be taking any action to serve the erroneously filed Complaint on Defendant.

CONCLUSION

Plaintiff respectfully requests that this Court return the filing fee associated with the errant filing of the Complaint in this matter.

Respectfully submitted,

Dana Nessel
Attorney General

/s/ Daniel B. Felder
Daniel B. Felder (P68920)
Assistant Attorney General
Attorney for Plaintiff
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